

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

BARRY LOUIS LAMON,

Plaintiff,

v.

MCTAGGART, *et al.*,

Defendants.

Case No. 1:22-cv-01421-ADA-BAM (PC)

ORDER GRANTING PLAINTIFF'S MOTION
TO FILE SECOND AMENDED COMPLAINT
(ECF No. 25)

ORDER DIRECTING CLERK OF COURT TO
FILE SECOND AMENDED COMPLAINT
LODGED ON AUGUST 9, 2023
(ECF No. 24)

ORDER GRANTING PLAINTIFF'S MOTION
FOR WITHDRAWAL OF HIS MOTION TO
REMAND AND TERMINATING MOTION
(ECF Nos. 5, 26)

ORDER VACATING APRIL 7, 2023
FINDINGS AND RECOMMENDATIONS
(ECF No. 14)

ORDER GRANTING DEFENDANTS'
REQUEST FOR SCREENING OF SECOND
AMENDED COMPLAINT
(ECF No. 27)

Plaintiff Barry Louis Lamon ("Plaintiff") is a state prisoner appearing *pro se* in this civil rights action pursuant to 42 U.S.C. § 1983. This action was removed from Kings County Superior Court on November 3, 2022. (ECF No. 1.)

Currently pending are the Court's findings and recommendations to grant Plaintiff's motion to remand this action to state court, dismiss any purported federal claims as abandoned,

1 and remand the remainder of this action to the Superior Court. (ECF No. 14.) Following the
2 filing of Plaintiff's motion for leave to file a second amended complaint and lodging of a second
3 amended complaint, (ECF Nos. 18, 19), the Court issued an order denying Plaintiff's motion to
4 amend, without prejudice, striking the lodged second amended complaint, and directing Plaintiff
5 to file a clarification of his intent. (ECF No. 20.)

6 Following an extension of time, on August 9, 2023, Plaintiff lodged a second amended
7 complaint and filed a motion to file a second amended complaint and a motion for withdrawal of
8 his motion to remand. (ECF Nos. 24–26.) On August 16, 2023, Defendants filed a request for
9 screening of Plaintiff's second amended complaint. (ECF No. 27.)

10 In light of the request for screening, the Court construes Defendants' request as a non-
11 opposition to Plaintiff's motions to file a second amended complaint and motion for withdrawal
12 of the motion to remand. Those motions are therefore granted. The Court further finds that
13 screening of the second amended complaint is appropriate pursuant to 28 U.S.C. § 1915A, and
14 Defendants' motion for screening is granted. The second amended complaint will be screened in
15 due course.

16 Accordingly, IT IS HEREBY ORDERED as follows:

- 17 1. Plaintiff's motion to file a second amended complaint, (ECF No. 25), is GRANTED;
- 18 2. The Clerk of the Court is DIRECTED to file the second amended complaint lodged on
19 August 9, 2023, (ECF No. 24), as the operative complaint in this action;
- 20 3. Plaintiff's motion for withdrawal of his motion to remand, (ECF No. 26), is GRANTED;
- 21 4. The Clerk of the Court is DIRECTED to terminate Plaintiff's motion to remand, (ECF No.
22 5);
- 23 5. The April 7, 2023 findings and recommendations regarding Plaintiff's motion to remand,
24 (ECF No. 14), are VACATED;
- 25 6. Defendants' request for screening of Plaintiff's second amended complaint, (ECF No. 27),
26 is GRANTED;
- 27 7. The deadline for Defendants to file a response to the operative complaint will be reset as
28 necessary following screening of the complaint; and

8. Plaintiff's second amended complaint will be screened in due course.

IT IS SO ORDERED.

Dated: August 17, 2023

/s/ *Barbara A. McAuliffe*
UNITED STATES MAGISTRATE JUDGE